

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Rulemaking 94-04-031  
(Filed April 20, 1994)

Order Instituting Investigation on the  
Commission's Proposed Policies Governing  
Restructuring California's Electric Services  
Industry and Reforming Regulation.

Investigation 94-04-032  
(Filed April 20, 1994)

**ADMINISTRATIVE LAW JUDGE'S RULING  
REGARDING THE OBLIGATIONS OF ELECTRIC SERVICE  
PROVIDERS PURSUANT TO DECISION 98-03-072**

**Background**

On March 26, 1998, the Commission adopted its decision on consumer protection for the direct access electricity market, Decision (D.) 98-03-072. The decision directed the assigned Administrative Law Judge (ALJ) to send a ruling to all currently registered electric service providers (ESPs) to notify them of their obligation to abide by the rules set forth in D.98-03-072 and that they are required to supplement their registration information. This ruling provides that notification.

The decision may be obtained by accessing the Commission's Internet web site at [www.cpuc.ca.gov](http://www.cpuc.ca.gov). In the alternative, you may purchase a copy of the decision by contacting Central Files at (415) 703-2045.

D.98-03-072 revised the registration requirements for all ESPs, including those ESPs who have already received registration numbers from the Commission. The decision adopts interim standards for proof of financial viability and proof of technical and operational abilities. The decision also revised the ESP registration form and requires all currently registered ESPs to supplement its registration information and to submit all required documents. In addition, D.98-03-072 addressed and established

rules and procedures for the other consumer protection safeguards that were added to the Public Utilities Code by Senate Bill 477 (Stats. 1997, ch. 275.). All of these various rules and procedures have an immediate and direct impact on the operations of all ESPs serving residential and small commercial customers.

Final standards for proof of financial viability and proof of technical and operational abilities were also proposed in the decision. Interested persons may file opening and reply comments to those proposed final standards in accordance with the schedule set forth in the decision. In addition, comments are being solicited on two additional proposals that are addressed in the decision. The decision is also soliciting interest from all ESPs, public agencies, electrical corporations and energy efficiency providers in a list of consumers who are interested in being contacted by ESPs and by energy efficiency providers.

### **Your Obligation As An ESP**

D.98-03-072 went into effect on March 26, 1998. Effective immediately, all currently registered ESPs who do not have a signed "Energy Service Provider Service Agreement" with any utility distribution company (UDC) are prohibited from marketing, advertising, or otherwise offering for sale any retail direct access electrical services to any residential or small commercial customer in California.

In addition, if the ESP has not signed any service agreement with a UDC, the ESP is required to supplement its ESP registration information by completing the "Electric Service Provider Application Registration" that is attached to the decision as Appendix A, together with all required documents, and to mail that information to the Energy Division no later than June 24, 1998. The required documents include the following: if a fictitious business name is being used, evidence of compliance with the Business and Professions Code; if a non-California corporation, limited liability company or limited partnership, a copy of the certificate from the California Secretary of State permitting the entity to transact business in California; a copy of the signed service agreement; a description of each key person's experience in the sale, procurement, metering and billing of energy sources or similar products; and a completed fingerprint card of the registrant if an individual, of all general partners if a

partnership or limited liability partnership, of all managers and/or officers if a limited liability company, or of the directors and officers if the entity is a corporation.

An ESP who has not yet signed a service agreement with a UDC is also required to post with the Commission a cash security deposit or a financial guarantee bond in the amount of \$25,000 prior to the ESP signing up and initiating a direct access service request on behalf of any residential or small commercial customer. In addition, the ESP is required to provide a copy of all of its agreements with its scheduling coordinators or declarations from each scheduling coordinator with which the ESP has an agreement. The ESP is also required to submit a copy of its Section 394.5 notice when it signs up its first customer or when the first standard service plan filing of the ESP is due, whichever is earliest.

If the currently registered ESP has already entered into a service agreement with one or more UDCs, the ESP is permitted to offer electric service only in the service territories of those UDCs for which the ESP has a service agreement. Those ESPs are also required to supplement their ESP registration information, as described above, on or before June 24, 1998. If the ESP has already signed up or initiated a direct access service request on behalf of a residential or small commercial customer, the ESP is required to post the above-described deposit or bond with the Commission on or before April 9, 1998, and to submit the notice required under Public Utilities Code Section 394.5 to the Energy Division no later than April 10, 1998. The scheduling coordinator agreement or declaration is to be submitted as part of the ESP's supplemental registration information.

The failure of an ESP to update the required information or to provide the required information as described above and as discussed in D.98-03-072 will lead to a suspension of the ESP's registration on July 6, 1998.

Any currently registered ESP that cannot comply with the revised registration requirements, or who does not want to market to residential and small commercial customers at this time, may request in writing that their registration be placed on "inactive status." The ESP must state the following in the written request: the ESP's registration number; that the registrant wants to be placed on inactive status; that the

person signing the letter has the authority to bind the entity; and there must be a declaration or affirmation under penalty of perjury under the laws of California that the entity will not advertise, market, or otherwise offer electrical service to residential or small commercial customers while the entity is on inactive status. This request must be mailed to the Energy Division-ESP Registration no later than April 15, 1998. If the ESP fails to notify the Energy Division that it wants to be placed on inactive status by that date, then the ESP must update its registration information no later than June 24, 1998 or face suspension.

If a currently registered ESP no longer wants to be registered as an ESP, it may send a request to cancel at any time to the Energy Division-ESP Registration. The written request should include the ESP's registration number, that the person signing the letter has the authority to bind the entity, and that the entity requests that its ESP registration number be cancelled.

Any ESP who is listed on inactive status or whose registration number has been cancelled, is prohibited from marketing, advertising, or otherwise offering for sale any retail direct access electrical services to any residential or small commercial customer in California.

The above requirements address the major impacts on each registered ESP. For other consumer protection safeguards which apply to all ESPs, each ESP should read D.98-03-072.

### **Comments On Proposed Final Standards**

In accordance with SB 477, D.98-03-072 proposes that a set of final standards regarding proof of financial viability and proof of technical and operational ability be adopted by the Commission. The proposed final standards may be commented upon by all interested parties. After submission of all the comments, the Commission will issue a decision adopting final standards for proof of financial viability and proof of technical and operational ability. Anyone interested in filing comments on the proposed final standards shall file in the Docket Office and serve their opening comments on or before April 15, 1998. Reply comments to the opening comments are to be filed and served on or before April 30, 1998.

### **Other Proposals And Solicitation Of Interest**

D.98-03-072 also proposes that the Office of Ratepayer Advocates be responsible for developing and maintaining a common matrix of information that allows consumers to compare the service offerings of the different ESPs. Parties may file opening and reply comments on this proposal in accordance with the schedule for comments on the proposed final standards.

The decision also proposes that the UDCs be responsible for establishing a database or record of calls to their customer service centers regarding complaints against ESPs. It is proposed that such information be used by the Commission's Consumer Services Division to monitor the ESP's compliance with applicable laws, rules and orders, to assist in any investigation or enforcement actions against alleged violators, and to detect possible problem areas. Opening and reply comments on this proposal shall be filed in accordance with the schedule for comments on the proposed final standards.

D.98-03-072 is also soliciting interest in the "opt-in" customer list. This opt-in list would contain the names and addresses and possibly telephone numbers of consumers who are interested in receiving more information from ESPs and perhaps from energy efficiency providers. Before deciding whether such a list should be compiled, the Commission is trying to gauge the demand for such a list. If there is sufficient interest in the list and the cost of developing the list can be substantially or totally recovered from the sale of the list, then the Commission is inclined to proceed with the design and implementation of the opt-in list. Those ESPs, public agencies, electrical corporations, and energy efficiency providers who are interested in purchasing such a list should send a letter to the Energy Division-Opt-In List, 505 Van Ness Avenue, 4th Floor, San Francisco, California 94102. The letter should indicate whether the entity is interested in purchasing such a list, and the amount that it would be willing to pay for such a list. The letter is to be mailed to the Energy Division on or before April 15, 1998.

Therefore, **IT IS RULED** that :

1. In accordance with Ordering Paragraph 14 of D.98-03-072, notification of the obligations of ESPs under this decision is being provided to all registered ESPs.

2. All currently registered ESPs must comply with the requirements of D.98-03-072 as described above and discussed in depth in the decision.
3. Comments on the above proposals are to be filed in accordance with the schedule set forth in D.98-03-072.
4. Any ESP interested in the opt-in list is to submit a letter of interest to the Energy Division on or before April 15, 1998.

Dated March 30, 1998, at San Francisco, California.

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John S. Wong  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding the Obligations of Electric Service Providers Pursuant to Decision 98-03-072 on all parties of record in this proceeding or their attorneys of record and to all currently registered electric service providers.

Dated March 30, 1998, at San Francisco, California.

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Berlina Gee

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.